

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION**

NICHOLAS FIORILLO, AS)
TRUSTEE OF THE FIORILLO)
FAMILY REVOCABLE TRUST and)
18 PENN AVENUE REALTY TRUST,)
Plaintiff)

v.)

KEVIN M. CURTIS, FELICIO LANA)
d/b/a NORTHEAST PROPERTIES,)
RICHARD MERLINO, MARK WINIKER,)
TINA BRENN, DENNIS COY, STEVEN)
SHALANSKY, CURTIS PROPERTIES,)
LLC, HOLLISTON MASONRY, INC.,)
METROWEST PROPERTY)
MANAGEMENT, LLC, CANAL)
MARKETPLACE DEVELOPMENT,)
LLC, BLACKSTONE LOFTS, LLC,)
TOR-SHAL CAPITAL, LLC, RIVER)
STREET REALTY TRUST, THE 426)
MAIN STREET REALTY, LLC, and)
WEBSTER FIRST FEDERAL CREDIT)
UNION,)
Defendants)

CIVIL ACTION NO.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1331, 1441, 1446, Defendant Webster First Federal Credit Union (“Webster First”) files this Notice of Removal of the above-named action to the United States District Court for the District of Massachusetts from Worcester County Superior Court in which the action is now pending and states:

1. This action was commenced in the Massachusetts Superior Court for Worcester County as Civil Action No. WOCV2013-02251D (“the Superior Court Action”), and is now pending in that court.

2. The following named Defendants have been served in the Superior Court action and have indicated they consent to this Notice of Removal: Kevin M. Curtis, Tina Brenn, Felicio Lana d/b/a Northeast Properties, Mark Winiker, Blackstone Lofts, LLC, Canal Marketplace Development LLC, and Metrowest Property Management. The written consents of the aforementioned Defendants are attached as Exhibit A. Defendants Steven Shalansky and Tor-Shal Capital were served but have since been dismissed from this case.
3. The remaining named defendants have not been served. See *Lothrop vs. North American Air Charter, Inc.*, No. 13-10235-DPW, 2013 WL 3863917 (D. Mass. July 11, 2013) (“The rule of unanimity plainly does not require consent of defendants who have not been properly served.”).
4. The Superior Court action was commenced on December 12, 2013. Plaintiff did not serve Webster First until May 14, 2014. Except for defendant Kevin M. Curtis, no other defendant was served prior to May 14, 2014, according the returns of service filed in the Superior Court action. The time within which Webster First is permitted to file this Notice of Removal to this court has not elapsed.
5. A Copy of the Amended Complaint as served on Webster First and a copy of the other pleadings and orders served upon Webster First are filed with this Notice and attached as Exhibit B.
6. Pursuant to Local Rule 81.1(a), certified or attested copies of all records, proceedings and docket entries in the Worcester Superior Court action shall be filed with this court within thirty (30) days.
7. Defendant Webster First will give written notice of the filing of this Notice pursuant to the requirements of 28 U.S.C. § 1446(d).
8. A copy of this Notice is being filed with the Civil Division of the Worcester County Superior Court pursuant to the requirements of 28 U.S.C. § 1446(d).
9. The Plaintiffs’ complaint is civil in nature and purports to set forth two counts under the federal Racketeering Influenced and Corrupt Organizations (RICO) Act, 18 U.S.C. §§ 1961-1968.
10. This case is removable under 28 U.S.C. § 1441 because this United States District Court has original jurisdiction of the case pursuant to 28 U.S.C. § 1331. Section 1331 provides that the United States District Courts shall have original jurisdiction of all civil actions arising under the laws of the United States.

WHEREFORE, Defendant requests that the Worcester County Superior Court proceed no further with the above numbered and entitled case, and that this action be removed from that court to the United States District Court for the District of Massachusetts.

WEBSTER FIRST FEDERAL
CREDIT UNION

By /s/ Andrew P. DiCenzo
John A. Mavricos, BBO#325360
Andrew P. DiCenzo, BBO#689291
Christopher, Hays, Wojcik
& Mavricos, LLP
446 Main Street
Worcester, MA 01608
508-792-2800
jmavricos@chwmlaw.com
adicenzo@chwmlaw.com

CERTIFICATE OF SERVICE

I, Andrew P. DiCenzo, hereby certify on this 13th day of June, 2014, I served a copy of the foregoing document, to all counsel of record by causing a copy of same to be sent by first class mail, postage prepaid to:

Nathaniel D. Pitnof, Esq.
100 Grove Street
Worcester, MA 01605

Russell S. Chernin, Esq.
390 Main Street
Worcester, MA 01608

E. John Anastasi, Esq.
245 Main Street
Oxford, MA 0552

Michael P. Angelini, Esq.
Bowditch & Dewey. LLP
311 Main Street
Worcester, MA 01608

/s/ Andrew P. DiCenzo

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